

NOTICE OF PROPOSED ACTION

PAYMENT BY COUNT OF REFUND VALUE TO CONSUMERS

TITLE 14. NATURAL RESOURCES DIVISION 2. DEPARTMENT OF CONSERVATION CHAPTER 5. DIVISION OF RECYCLING

NOTICE IS HEREBY GIVEN that the Department of Conservation (Department), Division of Recycling (Division) proposes to adopt amendments to the California Code of Regulations (CCR). Commencing with Subchapter 5, Chapter 5, Division 2, Title 14 of the CCR, the Division will propose permanent regulations, after the consideration of all comments, objections or recommendations. The proposed amendments are as follows:

SUBCHAPTER 5. PROCESSORS

Article 3. Accounting and Reporting Requirements

§ 2430. PAYMENTS.

Subsection 2430(b): This amendment is necessary due to its reference to Subsection 2535(f), which has been renumbered to 2535(e), due to the deletion of Subsection 2535(c), which changed the numbering of subsequent sections for consistency.

SUBCHAPTER 6. RECYCLING CENTERS

Article 1. Requirements for Recycling Centers

§ 2501. LOAD INSPECTION REQUIREMENTS.

Subsection 2501(c): A change in reference to Section 2535(d) due to the deletion of Subsection 2535(c) would have normally been necessary, but due to its prior incorrect reference and the proposed restructure of Section 2535, a change in reference is no longer necessary.

Article 3. Accounting and Reporting Requirements

§ 2525. RECORDKEEPING.

Subsection 2525(a)(1): This amendment is necessary due to its reference to Subsection 2535(g), which has been renumbered to 2535(f), due to the deletion of Subsection 2535(c), which changed the numbering of subsequent subsections for consistency.

§ 2535. PAYMENTS TO CONSUMERS, CURBSIDE PROGRAMS, COMMUNITY SERVICE PROGRAMS AND DROPOFF OR COLLECTION PROGRAMS.

Subsection 2535(b): This amendment will clarify, for recycling center operators, that consumers may be paid refund value, by count, for more than a total of 50 empty beverage containers. In addition, adoption of the proposed changes to this subsection will increase the consumers' option of payment by count from "fifty empty beverage containers" to "up to fifty empty beverage containers of each material type", notwithstanding the total number of empty beverage containers contained in the aggregate load.

Subsection 2535(c): Deletion of this subsection is necessary for the restructure of this section. The amendment to subsection 2535(b) meets the requirements of current regulatory provisions of this subsection for payment of refund value for deliveries of fifty empty beverage containers or less to recycling centers.

Subsections 2535(d),(e),(f),(g): Renumbering these subsections is necessary to revise the letter designations of each subsection changed by the deletion of old Subsection 2535(c).

INFORMATION IS AVAILABLE UPON REQUEST. Copies of the express terms of the proposed action, the initial statement of reasons, and all of the information upon which this proposal is based are available upon request. The rulemaking file is available to the public for review during normal business hours at the Division of Recycling, 801 "K" Street, 19th Floor, Sacramento, California. Please contact the agency contact person, Eloisa Hernandez, at (916) 327-2757. General or substance questions regarding this file may also be directed to Karen Denz. The backup agency contact person for this rulemaking file is Karen Denz, who may be contacted at (916) 322-1899. Any technical inquiries shall be referred to the appropriate staff to ensure a prompt response.

SUBMITTING WRITTEN COMMENTS. The written comment period permits any interested person, or their authorized representative, to submit written comments addressing the proposed amendment to the Department. Written comments, which offer a recommendation and/or objection, or support the proposed amendment, should indicate the amended section to which the comment or comments are directed. Written comments should be sent to the Department and received before the close of the public comment period, no later than 5:00 p.m. on November 17, 2003. Additionally, we request that written comments reference a subsection or section of the proposed action. Written comments received by the Department after the close of the public comment period will not be responded to in the rulemaking file. Submit your written comments to: Eloisa Hernandez, Proposed Payment of Refund Value Permanent Regulations, Department of Conservation, Division of Recycling, 801 "K" St., MS 19-02, Sacramento, CA 95814. During the 45-day comment period, written comments may also be E-mailed to: DORRegulations@consrv.ca.gov, or faxed to (916) 323-0732.

PUBLIC HEARING SCHEDULED. The hearing will begin promptly at 10:00 a.m. and will adjourn immediately after hearing the last public comment by those individuals present. The conference room is wheelchair accessible. The public hearing to record public comments on the proposed amended regulations is scheduled for:

November 17, 2003 at 10:00 a.m.
The Renaissance Tower
19th Floor Conference Room
801 "K" Street
Sacramento, CA 95814

SUBSTANTIAL REVISIONS WILL REQUIRE A RENOTICE. Following the public hearing, the Department will adopt the regulations without further notice. However, if the Department chooses to substantially alter or revise the proposed regulatory action, a revised notice, called a renote, and the amended version of the proposed text of the regulations will be made available to the public for another public comment period for fifteen (15) days prior to its adoption. Those persons who testified at the public hearing, submitted written comments at the public hearing, whose comments were received by the Department during the public comment period, or who requested notification from the Department of the availability of changes to the text of the proposed regulations, will be sent any renotices.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Under the existing law, the California Beverage Container Recycling and Litter Reduction Act (Act) encourages recycling of specific beverage containers and the reduction of littered beverage containers along the State's highways. Under this Act, the Department, through the Division of Recycling (Division), is responsible for administering the Act and protecting the integrity of the California Beverage Container Recycling Fund (Fund).

The amendments to (CCR) Sections 2430, 2525, and 2535 will alleviate confusion among recycling center operators by: (1) clarifying that consumers may be paid by count for more than a total of 50 empty beverage containers; and (2) making recycling by count more consumer friendly, thus, providing consumers a greater incentive to recycle.

Adoption of the proposed amendments should reduce the ongoing complaints from consumers and confusion among operators on the Division's payment by count transaction requirements.

In addition, proposed amendments will further amend regulations to increase the consumers option of payment by count from "fifty empty beverage containers" to "up to fifty empty beverage containers of each material type",

notwithstanding the total number of empty beverage containers contained in the aggregate load. This new option should provide consumers a greater incentive to recycle and improve the Division's potential for meeting its recycling rate goal, as mandated by the Act.

AUTHORITY

These regulations are submitted pursuant to the Department's authority under Public Resources Code Sections, 14530.5 (b) and 14536.

REFERENCE

Public Resources Code Sections, 14572 and 14572.5.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: The Department has determined that adoption of these proposed regulations do not impose any new mandates on local agencies or local school districts.

Cost or savings to any state agency: No savings or additional expenses to state agencies are identified because the implementation of statute is financed by the beverage container recycling program itself.

Costs to any local agency or school district which must be reimbursed in accordance with Government Code §§17500 through 17630: The Department has determined that the adoption of these proposed regulations does not impose any additional cost obligations on local agencies or on local school districts.

Other non-discretionary cost or savings imposed upon local agencies: No other non-discretionary costs or savings to local agencies have been identified.

Cost or savings in federal funding to the State: No costs or savings in federal funding to the state have been identified.

Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: The Department has determined that no significant impact to California businesses will result from the adoption of this proposed regulatory language.

These proposed regulations serve to clarify and make specific existing statutory requirements.

Potential cost impact on private persons or directly affected businesses: Any cost impacts that a representative private person or business may incur in reasonable compliance with the proposed action can be mitigated.

Creation or elimination of jobs in California: The Department has determined that the adoption of these regulations will not:

Create or eliminate jobs within California;

Create new nor eliminate existing businesses within California;

Expand businesses currently doing business in California.

Significant effect on housing costs: The Department has determined that the adoption of these regulations will have no significant effect on housing costs.

Effects on small businesses: The Department has determined that the adoption of these proposed regulations will not affect small businesses. These proposed regulations serve to clarify and make specific existing requirements contained in statute. These proposed regulations do not mandate actions upon private persons or businesses, but rather clarifies existing statutory mandates.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative that it considers or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. The Department has not identified any adverse impacts resulting from these proposed regulations.

FINAL STATEMENT OF REASONS

A copy of the final statement of reasons may be obtained, when it becomes available, from the agency contact person or backup contact person identified in this notice.

ACCESSING INFORMATION REGARDING THIS FILE ON THE DEPARTMENT OF CONSERVATION WEBSITE

The text of the proposed regulations, the Notice of Proposed Action, the Initial Statement of Reasons and the Final Statement of Reasons, when available for review, will be on the Department of Conservation website at: www.consrv.ca.gov.